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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,095	10/31/2003	Donald W. Verser	210441US (CPCM:0016/FLE)	2662
7590 07/26/2005			EXAMINER	
Michael G. Fletcher Fletcher Yoder P. O. Box 692289 Houston, TX 77269-2289			LU, C CAIXIA	
			ART UNIT	PAPER NUMBER
			1713	

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/699,095

Applicant(s)

VERSER ET AL.

Examiner

Caixia Lu

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 21-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/31/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I, claims 1-20 in the reply filed on April 25, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 102/103

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-20 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kendrick et al. (US 6,204,344).

The instant claims are directed to a process for producing solid polymer particles by conducting slurry polymerization in a loop reactor, passing the intermediate polymer slurry product through a heated conduit to producing a concentrated intermediate product and a vapor, and separating the vapor from the concentrated intermediate product by centrifugal force in a cyclone.

Kendrick teaches conducting a slurry polymerization process in a loop reactor to produce a polymer slurry intermediate product and recovering the polymer solid by passing the polymer slurry intermediate product to a heating conduit, a first flash tank and a first cyclone to separate the intermediate product to polymer particles (which are transferred to a conventional dryer) and vapor (which contains some polymer fine and catalyst), then passing the vapor to a second conduit, a second flash tank and a second cyclone to further separate the solids from the vapor, and finally passing the vapor through a filter for recycling (col. 8, line 33 to col. 11, line 58, and Examples 1-4).

The prior art examples do not disclose all the claimed limitations such as separation of the polymer solids from the vapor in the cyclone by centrifugal force, the percentage of the vapor to be separated from the polymer slurry intermediate product, the length of the receiving zone and the residence time for drying the polymer solids. However, it is understood in the art that the cyclone is designed to use centrifugal force to separate the solid material from the non-solids, and the polymerization process disclosed in the prior art is very similar to those disclosed in the instant specification. Under these circumstances, one of ordinary skill in the art would have expected that the claimed limitations would be inherent in the prior art polymers.

Even if the claimed properties are not inherent in the polymers of the prior art examples, it would still have been obvious to a skilled artisan to arrive at the claimed subject matter because it appears that the claimed subject matter is within the generic disclosure of the prior art and expected to work.

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Once a product appearing to be substantially identical is found and a 35 USC 102/103 rejection made, the burden of proof is shifted to the applicant to show an unobvious difference. In re Fitzgerald, 205 USPQ 594. In re Fessmann, 180 USPQ 324. Applicants have not met their burden to demonstrate an unobvious difference between the claimed product and the products of the prior art examples.

5. Claims 2-6, 8-13, 16-17 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kendrick et al. (US 6,204,344).

Kendrick's teaching is relied upon as shown above. As indicated above, Kendrick does not expressly indicate the percentage of the vapor to be separated from the polymer slurry intermediate product, the length of the receiving zone and the residence time for drying the polymer solids. However, any such differences are deemed to be result effective variables that one of ordinary skill in the art would be expected to manipulate to advantage based on a consideration of both economic and performance factors. Additionally, such limitations can be considered to have been simply known as conventional to the artisan practicing in the art at the time the invention was made and/or were common practices which were so well known in the art that they would have been taken for granted. MPEP 716.02(a) and 2144. If applicants believe that one or more limitations are critical to the invention, then applicants should limit the claims to reflect such critical limitations as well as indicate where in the specification such critical limitations are discussed and demonstrated.

The limitations of all claims have been considered and are deemed to be within the purview of the prior art.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Caixia Lu whose telephone number is (571) 272-1106. The examiner can normally be reached from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful and the matter is urgent, the examiner's supervisor, David Wu, can be reached at (571) 272-1114. The fax numbers for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1700.



Caixia Lu, Ph. D.
Primary Examiner
July 22, 2005